

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE PACKAGED ICE ANTITRUST  
LITIGATION

THIS DOCUMENT RELATES TO:  
INDIRECT PURCHASER ACTIONS

Case Number: 2:08-MD-01952-PDB  
Judge: Hon. Paul D. Borman  
Magistrate Judge: Hon. R. Steven Whalen

**DEFENDANTS REDDY ICE HOLDINGS, INC. AND REDDY ICE CORPORATION'S  
UPDATED LIST OF CONTROLLING AND MOST APPROPRIATE AUTHORITIES  
IN SUPPORT OF THEIR MOTION TO DISMISS**

Pursuant to the Court's Order, dated February 11, 2011, Defendants Reddy Ice Holdings, Inc. and Reddy Ice Corporation (collectively, "Reddy Ice") submit the following Updated List of Controlling and Most Appropriate Authorities in Support of Reddy Ice's Motion to Dismiss. In accordance with the Court's Order, new authorities include an explanatory parenthetical. In addition, the citations to any new authorities identified herein appear in bold font.

*Ashcroft v. Iqbal*, 129 S.Ct. 1937 (2009).

***Bearden v. Honeywell Int'l, Inc.*, No. 3:09-1035, 2010 WL 3239285, at \*10 (M.D. Tenn. Aug. 16, 2010)** (provisions of the Tennessee Consumer Protection Act that prohibit class actions by private citizens define the scope of the substantive rights available under the Act, and are therefore not preempted by Rule 23).

*Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

*Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1997).

***In re Aftermarket Filters Antitrust Litig.*, No. 08C4883, 2010 WL 1416259, at \*2-3 (N.D. Ill. April 1, 2010)** (dismissing indirect purchasers' claims for unjust enrichment under the laws of Kansas, Maine, Michigan, North Carolina, Utah and Wyoming).

***In re Checking Account Overdraft Litig.*, 694 F. Supp. 2d 1302, 1324-25 (S.D. Fla. 2010)** (Article III standing of each named plaintiff must be resolved before class certification, and named plaintiffs had standing to assert statutory claims only under the laws of the states where a named plaintiff resided).

***In re Flash Memory (Flash Memory) Antitrust Litig.*, No. C 07-0086, 2009 WL 1096602 (N.D. Cal. Mar. 31, 2009).**

***In re Graphics Processing Units (GPU) Antitrust Litig.*, 527 F. Supp. 2d 1011 (N.D. Cal. 2007).**

***In re New Motor Vehicles Can. Exp. (NMV) Antitrust Litig.*, 350 F. Supp. 2d 160 (D. Me. 2004).**

***In re Static Random Access (SRAM) Antitrust Litig.*, 580 F. Supp. 2d 896 (N.D. Cal. 2008).**

***In re Static Random Access Memory (SRAM) Antitrust Litig.*, No. 07-md-01819, 2010 WL 5094289, at \*4, 6-10 (N.D. Cal. Dec. 8, 2010)** (indirect purchaser plaintiffs: (1) could not maintain claims under the Montana antitrust statute or claims for unjust enrichment under the laws of Montana, Kansas, New York, and Pennsylvania; and (2) failed to maintain viable claims under consumer protection laws of Arkansas, Kansas, Maine, New York, and Rhode Island).

***In re TFT-LCD (Flat Panel) Antitrust Litig.*, 599 F. Supp. 2d 1179 (N.D. Cal. 2009).**

***In re TFT-LCD (Flat Panel) Antitrust Litig.*, MDL No. 1827, 2010 WL 2629728, at \*4, 7 (N.D. Cal. Jun 28, 2010)** (dismissing claims asserted under California law where plaintiffs failed to allege that they purchased goods in California and dismissing, under *Twombly*, claims against one defendant where complaint failed to specify the manner in which that defendant participated in the price fixing conspiracy that was the subject of guilty pleas by other defendants).

***In re Travel Agent Comm'n Antitrust Litig.*, No. 07-4464, 2009 WL 3151315 (6th Cir. Oct. 2, 2009).**

***In re Wellbutrin XL Antitrust Litig.*, No. 08-2433, 2010 WL 5186052, at \*6, 9 (E.D. Pa. Dec. 22, 2010)** (provisions of the Illinois antitrust act that prohibit class actions by private citizens are substantive and are therefore not preempted by Rule 23, whereas New York rule that prohibits certain class actions is procedural and is therefore preempted by Rule 23).

***McKinney v. Bayer Corp.*, No. 10-cv-224, 2010 WL 3834327, at \*11-12 (N.D. Ohio Sept. 30, 2010)** (provisions of the Ohio Deceptive Trade Practices Act limiting class actions are substantive and are therefore not preempted by Rule 23).

***Mitchell v. Walters*, No. 10-1061, 2010 WL 3614210, at \*7 (D.N.J. Sept. 8, 2010)** (Claims asserted under the New Jersey Consumer Fraud Act must be pled with particularity under Rule 9(b)).

***Pennsylvania Employee Benefit Trust Fund v. Zeneca, Inc.*, 710 F. Supp. 2d 458, 472, 474, 482, 483 (D. Del. 2010)** (New York consumer protection statute requires consumers to allege that they were aware of a deceptive act; Michigan Consumer Protection Act requires allegations that goods were acquired for personal, family or household purposes; and misrepresentation and justifiable reliance must be pled with particularity in accordance with Rule 9(b) under Pennsylvania Unfair Trade Practices Act).

***ReVest, LLC v. Long*, Adv. No. 09-5303, 2010 WL 2178547, at \*2 n.9 (Bankr. D. Kan. May 26, 2010)** (Claims brought under the Kansas Consumer Protection Act must be pled with particularity under Rule 9(b)).

***Sanford v. Nat'l Assoc. for the Self-Employed, Inc.*, 264 F.R.D. 11, 16 (D. Mn. 2010)** (Maine Unfair Trade Practices Act requires a deceptive or misleading act, and proof of purchase primarily for household or family purposes).

***Selfhelpworks.com v. 1021018 Alberta, Ltd.*, No. 10-cv-0172, 2010 WL 5396042, at \*5 (S.D. Cal. Dec. 23, 2010)** (Unjust enrichment is not a separate cause of action under California law).

***Shady Grove Orthopedic Assoc. v. Allstate Ins. Co.*, 130 S.Ct. 1431, 1438, 1448 (2010)** (FED. R. CIV. P. 23 creates a categorical rule that entitles a plaintiff whose suit meets the specified criteria to pursue the claim as a class action, but, under Justice Stevens' narrow approach in concurrence, Rule 23 does not displace any state law so intertwined with a state right or remedy that it functions to define the scope of a state-created right).

***Smith v. Lawyer's Title Ins. Corp.*, Civil Case No. 07-12124, 2009 WL 514210 (E.D. Mich. March 2, 2009).**

***Superior Offshore Int'l, Inc. v. Bristow Group, Inc.*, No. 1:09-cv-00438, 2010 WL 3699923, at \*8-9 (D. Del. Sept. 14, 2010)** (allegations of parallel price increases, even when coupled with certain statements from an unidentified person in a news report were insufficient to state a claim under *Twombly*).

***Winer Family Trust v. Queen*, 503 F.3d 319 (3d Cir. 2007).**

Dated: February 18, 2011

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 18, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all ECF users, and I hereby certify that I have mailed by United States Postal Service the foregoing to the following non-ECF participants:

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